

**RULES
OF
TENNESSEE. DEPARTMENT OF SAFETY
DRIVER CONTROL DIVISION**

**CHAPTER 1340-1-4
TENNESSEE DRIVER IMPROVEMENT PROGRAM**

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1340-1-4-.01 PURPOSE.

- (1) To establish a uniform system for conducting a driver improvement program whereby a licensed driver may, after notice and being afforded a right to a hearing to contest the records of the Department of Safety, have his or her driver's license suspended when the records of the Department indicate that the person has been convicted with such frequency of moving traffic violations or contributes to the occurrence of accidents as to indicate a disrespect for traffic laws or that the person is accident prone, or when the Department has reason to believe that the person is unable to safely operate a motor vehicle due to physical or mental disability.

Authority: T.C.A. §§55-50-505 and 55-50-202. **Administrative History:** Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996.

1340-1-4-.02 ASSIGNMENT OF POINT SYSTEM NUMERICAL VALUE.

- (1) The Department of Safety's driver point system is designed to identify those drivers whose records reflect a continuous disrespect for traffic laws, and a disregard for the safety of other persons on the highways.
- (2) To administer this program, a point value will be assessed for each accident and moving violation conviction.
- (3) Upon receipt of a moving traffic conviction notice from any court, or the receipt, by the Department, of an accident report indicating the person contributed to the occurrence of the accident, the Department shall charge the driver's record points as set out herein. Convictions of moving traffic violations which occurred more than one (1) year prior to the Department's receipt shall not be used within this program.

Authority: T.C.A. §55-50-505. **Administrative History:** Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996.

1340-1-4-.03 SCHEDULE OF VALUES. The following values will be assigned to moving traffic violations or contributing to the occurrence of accidents.

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|-----|---|--------|
| (1) | Moving Traffic Violations | Points |
| (a) | Tickets and court abstracts where speed not indicated on source documents | 3 |

(Rule 1340-1-4-.03, continued)

(b)	Speeding 1 through 5 MPH in excess of speed zone	1
(c)	Speeding 6 through 15 MPH in excess of speed zone	3
(d)	Speeding 16 through 25 MPH in excess of speed zone	4
(e)	Speeding 26 through 35 MPH in excess of speed zone	5
(f)	Speeding 36 through 45 MPH in excess of speed zone	6
(g)	Speeding 46 and above in excess of speed zone	8
(h)	Reckless driving as defined by <i>T.C.A. §55-10-205</i>	6
(i)	Signs and control devices - failing to obey traffic instructions	4
(j)	Improper passing - passing where prohibited	4
(k)	Wrong way, side or direction	4
(l)	Following improperly	3
(m)	Failing to yield the right-of-way	4
(n)	Making improper turn	3
(o)	Failure to signal intention to change vehicle direction	2
(p)	Passing school bus taking on or discharging passengers	6
(q)	Following emergency vehicles unlawfully	2
(r)	Speed less than posted minimum	3
(s)	Violation of bumper law conviction	4
(t)	Operating without being licensed or without license required for type of vehicle operated	3
(u)	Operating without being licensed or without license required for type of vehicle operated - under suspension, revocation, or cancellation	8

(Rule 1340-1-4-.03, continued)

(v)	Careless or negligent driving	4
(w)	Violation of driver license restrictions	6
(x)	Reckless endangerment by vehicle misdemeanor	8
(y)	Miscellaneous traffic violations failing to maintain control, improper control, etc., or any offense involving the operation of a motor vehicle not herein specified.	3
(z)	Leaving scene of an accident (property damage only)	5
(aa)	Failure to report an accident	4
(bb)	Speeding in Construction Zone	
1.	Tickets and court abstracts where speed not indicated	3
2.	Speeding 1 through 5 MPH in excess of posted speed	2
3.	Speeding 6 through 15 MPH in excess of posted speed	6
4.	Speeding 16 through 35 MPH in excess of posted speed	7
5.	Speeding 36 and above in excess of posted speed	8
(2)	Contributing to Occurrence of Accidents	
(a)	Contributing to an accident involving property damage	3
(b)	Contributing to an accident resulting in bodily injury	4
(c)	Contributing to an accident resulting in another's death	8
(3)	Driving while license canceled	8
(4)	Fleeing Law Enforcement Officer (Misdemeanor)	8
(5)	(a) Speeding in a commercial vehicle, speed not indicated	4

(Rule 1340-1-4-.03, continued)

(b)	Speeding in a commercial vehicle, 1-5 MPH in excess of posted speed zone	2
(c)	Speeding in a commercial vehicle, 6-14 MPH in excess of posted speed zone	4
(d)	Speeding in a commercial vehicle, 15-25 MPH in excess of posted speed zone	6
(e)	Speeding in a commercial vehicle, 26-35 MPH in excess of posted speed zone	7
(f)	Speeding in a commercial vehicle, 36 or more MPH in excess of posted speed zone	8
(g)	Speeding in a commercial vehicle in a construction zone, speed not indicated	4
(h)	Speeding in a commercial vehicle in a construction zone, 1-5 MPH in excess of posted speed zone	2
(i)	Speeding in a commercial vehicle in a construction zone, 6-14 MPH in excess of posted speed zone	5

Authority: T.C.A. §55-50-505. **Administrative History:** Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996.

1340-1-4-.04 SUSPENSION OF LICENSE FOR MOVING VIOLATION CONVICTIONS OR CONTRIBUTING TO THE OCCURRENCE OF AN ACCIDENT.

- (1) An advisory letter shall be mailed to each driver that accumulates six (6) or more, but less than twelve (12) points within a one (1) year period. The letter shall inform the driver of the point system and advise the driver of the points that he has accumulated and the consequences of accumulating more points. A driver shall receive only one (1) advisory letter of caution within a five (5) year period.
- (2) When a driver has accumulated twelve (12) or more points within a one (1) year period, the Department of Safety shall issue a notice of proposed suspension stating the grounds for such suspension and provide the driver with notice of his or her right to request an administrative hearing, provided the driver's request for the hearing is received within twenty (20) days from the date of notice in writing and stating why the proposed action should not occur. Upon receipt of a timely request for a hearing, the Department shall afford the driver a hearing before a hearing officer.
- (3) Proposed suspension action may also be initiated toward those drivers who are deemed to be accident prone. A driver is deemed to be accident prone when a periodic review of his or her driving record reveals three (3) or more avoidable accidents within a one (1) year period. The determination of whether an accident is avoidable or unavoidable rests with the Department.
- (4) Failure to request a hearing in writing pursuant to this chapter shall result in a six (6) month suspension unless the driver is currently undergoing, or has previously undergone within a five (5) year period, driver improvement suspension action, in which case the suspension period shall be for twelve (12) months.

(Rule 1340-1-4-.04, continued)

- (5) When a driver offers valid proof that an error in record keeping has occurred, and when the correction of this error would lower his or her point accumulation to less than twelve (12), then the suspension action shall be withdrawn. When a driver requesting a hearing fails to establish proof that an error in the record keeping has occurred, then the suspension action shall stand.
- (6) Calculation of Points - Each time a violation is posted to the driver's record, the computer shall scan back for a period of twelve (12) months from the posted date to determine whether sufficient points have been accumulated to warrant a proposed suspension notice. Any violations with an event date prior to the date of completion of the defensive driving course shall be included in the first entry into the Driver Improvement Program. Any violations with an event date subsequent to the date of completion of the defensive driving course shall be calculated as violation of probation. Violations posted subsequent to the date of completion of the course but which occurred prior to the date of completion of the course shall not be grounds for violation of probation.
- (7) First Offenders
 - (a) Any driver not suspended entering the Driver Improvement Program who has not been involved in the program within a five (5) year period shall be treated as a first offender.
 - (b) A notice of proposed suspension shall be issued to first offender drivers who accumulate between twelve (12) and twenty-four (24) points within a twelve (12) month period. The twelve (12) month period shall be calculated retroactively from the date each violation is posted. This notice shall advise the driver that he/she has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program; that he/she has the right to request an administrative hearing in writing to contest the proposed suspension if such hearing is requested within (20) days from the date of the notice; and that he/she is eligible as a first offender to elect to waive their right to request a hearing and to be assigned directly into a defensive driving course in lieu of suspension. Upon receipt of a timely request for an Administrative hearing, the Department shall afford the driver a hearing before a hearing officer.
 - (c) Persons entering the Driver Improvement Program for the first time with more than twelve (12) accumulated points, but less than twenty-five (25) points, who choose to be assigned directly into a defensive driving course in lieu of a six (6) month suspension will expressly waive their right to an administrative hearing by making this selection. They shall be sent a letter advising them of the location, address and telephone number of approved schools, and instructions for compliance.
 - (d) First offenders who accumulate more than twenty-four (24) points within a twelve (12) month period shall not be offered the option to waive their right to an administrative hearing and be assigned directly into a defensive driving course. In the event such offenders request an administrative hearing in writing, they may be assigned to attend a defensive driving course in lieu of suspension at the hearing officer's discretion. Upon receipt of a request for an administrative hearing, the Department shall afford the driver a hearing before a hearing officer.
 - (e) Following completion of the course and notification to the Department, the offender shall be placed on probation for a period of twelve (12) months. Any violations with an event date subsequent to the date of completion of the defensive driving course shall be considered a violation of probation.

(Rule 1340-1-4-.04, continued)

- (f) Violation of Probation - The first offense posted to the record of a driver on probation shall not trigger any departmental action for violation of probation, but a warning letter shall be generated to the driver which advises him/her that an offense or accident has been posted to the record of the driver during the probation period and any further violations within the probationary period shall constitute a violation of probation and revocation of probation and suspension for six (6) months shall occur. A second offense posted to the record of a driver on probation will trigger violation of probation and suspension action. If revocation of probation and suspension is proposed by the Department, the driver shall be advised in writing that he/she has the right to request an administrative hearing within twenty (20) days from the date of the notice before a safety hearing officer to contest the probation violation and suspension. Upon receipt of a request for an administrative hearing, the Department shall afford the driver a hearing before a hearing officer.
 - (g) At the discretion of the Department, an offender under driver improvement suspension may be issued a restricted license. The Department may place conditions on the license as the Department may determine to be appropriate to insure the safe operation of a motor vehicle by the person. To obtain a restricted license, the driver must complete an application, furnish proof of liability insurance, pay the restricted driver license fee and pass the driver license examination. A driver may be issued only one (1) restricted license in a five (5) year period.
 - (h) Administrative Probation - For good cause or in extreme circumstances, the Department may place a first offender driver on administrative probation in lieu of suspension. In this event, no suspension of the license shall occur, the probation period shall be for twelve (12) months, and the driver shall carry his or her points during this time. Good cause or extreme circumstances may include, but not be limited to, drivers temporarily out of the state or country due to military, employment, educational reasons, or serious illness.
 - (i) Violation of administrative probation shall follow the same procedure as violation of probation subsequent to the completion of a defensive driving school. Placement on administrative probation is a substitute for completion of a defensive driving course and a driver who violates administrative probation shall not be eligible to attend a defensive driving course.
- (8) Second or Subsequent Offenders
- (a) A notice of proposed suspension shall be issued to second or subsequent offenders who accumulate twelve (12) points within a twelve (12) month period. The notice shall advise those offenders that they have accumulated sufficient points in a twelve (12) month period to have their license suspended for a period of six (6) months and are entitled to request an administrative hearing in writing in order to contest the proposed suspension if such hearing is requested within twenty (20) days of the date of the notice. Upon receipt of a request for an administrative hearing, the Department shall afford the driver a hearing before a hearing officer.
 - (b) Persons who accumulate twelve (12) points within a twelve (12) month period and have attended a defensive driving course in lieu of suspension within the previous five (5) year period shall have their license suspended for a period of six (6) months.
 - (c) A driver entering the Driver Improvement Program for a second or subsequent time who has previously attended a defensive driving course in lieu of suspension within the previous five (5) period, and who is currently undergoing, or has previously undergone within the five (5) year period, driver improvement suspension action, shall have his/her driving privileges suspended for twelve (12) months.

(Rule 1340-1-4-.04, continued)

- (d) A driver entering the Driver Improvement program for a second or subsequent time, but has not attended a defensive driving course previously within the five (5) year period may be offered the option to attend such course in lieu of suspension at the hearing officer's discretion.
- (e) An eligible driver who elects to attend a defensive driving course in lieu of suspension shall be given ninety (90) days from the date of the letter assigning them to attend a course, or ninety (90) days from the date of their hearing to complete a defensive driving course.
- (f) Failure to complete the defensive driving course as assigned shall result in the suspension of the driver's license for six (6) months. Request for an extension of time to attend the course made in writing within ten (10) days of the running of the ninety (90) day period may be considered by the Department on a case-by-case basis for good cause. The Department shall notify the driver of the decision in writing.
- (g) If no certificate of completion has been received by the Department of Safety within seventy-five (75) days from the date of being assigned to attend a course, a warning letter shall be issued to the driver advising them that they were assigned to complete the defensive driving course to avoid suspension action, that no proof of completion has been received, and that failure to comply immediately shall result in the suspension of their driving privileges for six (6) months.
- (9) An administrative hearing shall be conducted by a hearing officer upon request of a driver. The hearing officer will explain the Driver Improvement Program, review the driving record in question, and advise the driver of his options, i.e., whether he/she is eligible to attend a defensive driving course in lieu of suspension.
- (10) Any driver whose license is suspended under this program by the hearing officer is eligible to appeal this action through the appeals process contained in the Administrative Procedures Act. (*T.C.A. §4-5-101 et seq.*)
- (11) Reinstatement
 - (a) Provided there is no other revocation, suspension, or cancellation action in effect, a driver will be eligible to regain his driving privileges once he has served the period of suspension, paid a restoration fee, filed evidence with the Department of financial responsibility for the future and passed the driver license examination.
 - (b) A suspended driver who failed to attend the defensive driving school as assigned may be permitted to reinstate prior to his/her eligibility date upon furnishing proof to the Department of attendance and completion of a departmentally-approved defensive driving course provided for above. A list of all Departmentally approved defensive driving courses shall be provided to the driver. Said driver shall be required to comply with all reinstatement requirements provided in this chapter. In this event, upon furnishing documentation of completion of the defensive driving course, the driver shall be placed on probation for twelve (12) months and all conditions of probation shall apply.

Authority: *T.C.A. §§55-50-502, 55-50-505, 55-50-331, 55-50-322, 55-12-119, and 55-12-129. Administrative History: Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996.*

1340-1-4-.05 DEFENSIVE DRIVING/ACCIDENT PREVENTION COURSES.

- (1) An approved defensive driving course or accident prevention course is one conducted by the Tennessee Department of Safety, one conducted by any other state's Driver Improvement Program, or any program approved by the Tennessee Department of Safety. Such a course must consist of an eight-hour program, with content which has been reviewed and approved by the Department of Safety.
- (2) The criteria established above shall also apply to accident prevention courses for older drivers as provided for in *T.C.A. §56-7-1107*.

Authority: *T.C.A. §55-50-505. Administrative History: Repeal and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996.*

1340-1-4-.06 SUSPENSION OF LICENSE FOR PHYSICAL OR MENTAL DISABILITIES.**(1) Mental Standards**

- (a) Any person who has been adjudged by a court of competent jurisdiction or has been evaluated by a psychiatrist, psychologist, or mental health facility and found to be afflicted with or suffering from any mental disease or disease including substance abuse, may have his/her driving privileges suspended until such time as they have been restored to competency by court order, order from the superintendent of the mental facility, or other such method provided by law, and must apply through the Driver Improvement Unit to receive a clearance/reinstatement order in order to recover, retain or obtain their driving privileges.
- (b) If the applicant claims to have been restored to competency, a certified copy of the court order or written statement from a psychiatrist, psychologist, or mental health facility must first be mailed directly to the Driver Improvement Unit for approval.
- (c) On approval, the applicant will receive a clearance/reinstatement order from the Driver Improvement Unit.
- (d) Court orders from persons who say they have been, or who are reported to have been, afflicted with mental illness or chronic substance abuse, regardless of whether evidence of cures are presented, must be forwarded to the Driver Improvement Unit with particulars for approval.

(2) Physical Standards

- (a) In all cases where medical statements are needed, the complaint/data must first be reviewed by the Department. Drivers who may be physically unfit to operate a motor vehicle upon the streets or highways of Tennessee may be identified in the following manner, and the review process invoked:
 - 1. A written complaint from a police officer or driver license examiner;
 - 2. Data contained in an accident report completed by a police officer or data voluntarily submitted by the driver in question;
 - 3. Data provided by any reliable individual as determined by the Department obtained through the receipt of a signed letter;
 - 4. Persons previously suspended and requesting a reevaluation of their record due to a purported change in the status of mental or physical health,
 - 5. Written referrals or complaints from physicians or medical professionals.
 - 6. Data obtained from courts, individuals, or information that would appear to be reliably obtained through other sources.
- (b) In cases where the Department receives such reports from other sources (such as private citizens, newspaper stories, accident reports not investigated by officers, or confidential information) notice shall be sent notifying the driver the information has been received and informing the driver that his license may be suspended and giving an opportunity to request an administrative hearing within twenty (20) days from the date of the notice. The person may be required to submit additional information or appear before a hearing officer. The person may be questioned concerning his/her physical condition, and he/she may be requested to submit a

(Rule 1340-1-4-.06, continued)

medical statement. No action will be taken until the conclusion of the investigation or hearing, and any action at such time will be determined by the results of the investigation or hearing.

- (c) There the review process is invoked, persons reported to have a medical problem shall be notified in writing and the Department shall provide the appropriate medical statement forms and instructions to each person for the review process.
- (d) The medical statements must be completed by a licensed physician and should contain sufficient information regarding the person's medical condition as to enable the Department to determine whether the person should be permitted to retain or obtain his/her driving privileges. The physician shall be requested to provide an opinion about the person's ability to drive. Said opinion will be given consideration in conjunction with other available information, and is not binding on the Department in making a decision.
- (e) Those medical forms completed by the physician will be reviewed and one or more of the following actions will apply:
 - 1. If the physician documents that the person does not have a medical problem relating to the operation of a motor vehicle, the case may be closed. If the case is not closed it may be referred to the Medical Review Board, to reconcile differences in complaint and doctor's statement.
 - 2. If the physician cannot positively document that the person does not have a medical condition relating to the operation of a motor vehicle, or if the physician feels that the person should not be allowed to drive for medical reasons, or if the Department so chooses, the medical papers may be forwarded to a Medical Review Board.
 - 3. The Medical Review Board may recommend the suspension of the drivers license and the conditions for the suspension. The Commissioner of Safety is empowered to implement the recommendation of the Medical Review Board, subject to the provisions of the Administrative Procedures Act.
- (f) The Department may require the driver to submit to a special driver license examination in lieu of, or in addition to, the medical review process.
- (g) Persons who fail to furnish the Department with the required medical information will have their driving privileges suspended until such time as a favorable medical report is received and restoration of driving privileges is approved.
- (h) The Department may utilize independent medical review boards to review and makes recommendations in cases of persons with mental or physical conditions. The review boards will be made up of licensed physicians, in fields of specialized or generalized medicine. Physicians may serve on the medical review board in a voluntary capacity, may be reimbursed as deemed appropriate by the Department on a per-case basis. The recommendations of the review board shall not be binding upon the Department.
- (i) It is the policy of the Department not to license anyone who suffers from uncontrolled epilepsy (also known as a seizure disorder), momentary lapses of consciousness or control due to epilepsy, cardiac syncope, diabetes, or other conditions, until he/she has remained seizure-free or lapse free for a period of one (1) year, and then only upon receipt of a favorable medical statement from his physician. Provided, however, the person may be approved for driving privileges after having been controlled for six (6) months, upon receipt of such a favorable

(Rule 1340-1-4-.06, continued)

recommendation from his/her physician, approval of the Medical Review Board, and approval of the Department.

- (j) The medical statement must contain the following information:
 - 1. The cause of the seizures, lapses, blackouts, or loss of consciousness or control;
 - 2. The frequency of the seizures, lapses, blackouts, or loss of consciousness or control;
 - 3. The medication taken, if any and effects the medication will have on the person's ability to drive;
 - 4. The person's compliance with treatment and/or medication;
 - 5. The physician's recommendation toward licensing.
- (k) In the following cases, the person may be immediately suspended until he submits the medical statement containing the information mentioned above:
 - 1. A history of seizures is admitted by the person;
 - 2. Information is submitted by a medical authority;
 - 3. Information is submitted by someone of a reputable nature who has witnessed a seizure;
 - 4. Information from relatives or friends who know the condition.
 - 5. Data obtained from courts, individuals, or information that would appear to be reliably obtained through other sources.
- (l) The policy outlined above also applies to other physical or mental disabilities where the Department has good cause to believe the subject would not be able to operate a motor vehicle with safety upon Tennessee highways because of lapses of consciousness or control.
- (m) Persons who have physical disabilities that can be compensated for by the use of physical controls or mechanical devices which enable the applicant to safely operate a motor vehicle may be approved for licensing if they meet all other appropriate eligibility criteria.
- (n) Applicants who are hearing impaired shall be restricted to the operation of vehicles equipped with left and right outside rear-view mirrors.
- (o) Vision standards, including telescopic/biopic lens use by drivers with low vision, are located in the rules of the Driver License Issuance Division of the Department of Safety.
- (p) Any person may request an administrative hearing before a hearing officer within twenty (20) days from the date of notification of the proposed suspension action. Any aggrieved party who has their driving privileges suspended as a result of a physical or mental disability may appeal the decision of the Department by filing a petition pursuant to the Uniform Administrative Procedures Act. (*T.C.A. §4-5-101 et seq.*)

Authority: *T.C.A. §§55-50-303, 55-50-502, and 55-50-505. Administrative History:* Original rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996.

(Rule 1340-1-4-.06, continued)

1340-1-4-.07 SUSPENSION OF LICENSE FOR FAILING TO PASS OR SUBMIT TO RE-EXAMINATION.

- (1) The Department of Safety may, upon receiving evidence sufficient to establish that a licensed driver is incompetent to operate a motor vehicle as determined by the Department or otherwise not qualified to be licensed, upon written notice of at least twenty (20) days to the licensee, require such driver to submit to a driver license re-examination and/or submit other information as deemed appropriate. Such notice shall also inform the driver that he/she may request an administrative hearing within twenty (20) days from the date of the notice. The Department shall take action as may be appropriate and may suspend the license of such person or permit such driver to retain such license.
- (2) Refusal or neglect of the licensee to submit to such re-examination shall be grounds for suspension of the driver's license.
- (3) Period re-examinations may be required, such as once a year, in the case of physical or mental conditions, or where there is a deterioration of the visual acuity or motor nerve response.
- (4) A driver required to undergo re-examination by the Department may undertake the written and/or vision portion of the driver examination test without limitation.
- (5) A driver required to undergo re-examination by the Department may take the on-the-road skills portion of the driver examination test three times at thirty day intervals. If successful, their driving privileges shall be reinstated. If unable to pass a road test in three attempts, the driver shall not be eligible to re-test for six (6) months from the date of the third test.
- (6) Drivers with a commercial drivers license may be required to submit to re-examination in their commercial vehicle or school bus. If the driver fails the re-examination in their commercial vehicle or school bus but wishes to downgrade to a Class D license, they may do so after successfully passing a complete examination in their personal vehicle.
- (7) Drivers who fail to submit to re-examination as required, or who fail to pass the re-examination, or who do not ask for an administrative hearing shall have their driving privileges suspended until such time as they comply with the re-examination requirement.
- (8) Any driver required by the Department to undergo re-examination shall be notified that he/she may request an administrative hearing before a representative of the Department, provided such request is submitted within twenty (20) days after date of notice. Upon receipt of a request for an administrative hearing, the Department shall afford the driver a hearing before a hearing officer.
- (9) Any driver whose license is suspended under this program is eligible to appeal this action through the appeals process contained in the Administrative Procedures Act. (*T.C.A. §4-5-101 et seq.*)

Authority: *T.C.A. §§55-50-322, 55-50-303, 55-50-505, and 55-50-202. Administrative History: Repeal of and new rule filed March 12, 1986; effective June 14, 1986. Repeal and new rule filed August 5, 1996; effective December 27, 1996.*